

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 08-cv-00673-PAB

HARVEY E. POLK, JR.,

Plaintiff,

v.

YELLOW TRANSPORTATION, INC.,  
an Indiana corporation,

Defendant.

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**MINUTE ORDER**

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**Entered by Judge Philip A. Brimmer**

This matter comes before the Court on defendant's "Motion to Dismiss Pursuant to F.R.C.P. 12(B)(1), or, in the Alternative to Stay Proceedings and Compel Arbitration" [Docket No. 3]. The Court has reviewed the pleadings and is fully advised in the premises.

On May 20, 2008, after defendant filed its motion to dismiss or stay this case, the parties jointly filed a stipulation [Docket No. 8] in which they agreed to stay the case pending the outcome of arbitration proceedings. The parties also agreed that each side would bear its own costs regarding the motion to dismiss. On May 21, 2008, the Court accepted the stipulation and stayed the matter pending arbitration. Therefore, it is

**ORDERED** that defendant's motion to dismiss, or in the alternative to stay the proceedings and compel arbitration [Docket No. 3] is DENIED as moot. Denial is without prejudice and defendant may re-file should it later become necessary. It is further

**ORDERED** that the parties are directed to continue filing status reports pursuant to the Court's Minute Order of May 21, 2008 [Docket No. 9].

Dated February 19, 2009.